IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Eric Aanenson	Examiner:	David Parsley
Serial No.:	10/773,504	Group Art Unit:	3644
Filed:	July 21, 2004	Docket No.:	A711.100.101
Title:	DEEP SEA FISHING LURE		

DECLARATION OF ERIC AANENSON

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 17 day of DECEMBER, 2008.

By: Michael Bondi

Name: **Michael Bondi**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I, Eric Aanenson, declare as follows:

1. I am one of the inventors in the above-identified patent application.

2. I have been extensively involved in the design in testing of the deep sea fishing lure described in this patent application.

3. As of the date of this Declaration, the deep sea fishing lure described in this patent application has not been manufactured on a commercial scale and has not been put on sale to the public.

4. As such, the comments set forth herein are based upon the results of using the deep sea fishing lure on a testing basis.

5. Deep sea fishing is quite different than other types of fishing such as is done in lakes or rivers because the fish are generally significantly larger than the fish found in lakes and rivers.

6. Additionally, as the name deep sea fishing implies, the fish that are desired to be caught when doing deep sea fishing are generally located much further beneath the water surface than fishing done on lakes or rivers.

7. Because of the typical size of fish such as blue fin tuna, yellow fin tuna and swordfish that are caught during deep sea fishing and the difficulty of catching such fish, there is a relatively large value placed on these fish.

8. The relatively large value of these fish encourages many persons to go on fishing excursions attempting to catch such fish even though it is quite challenging to catch such fish.

9. Accordingly, there is significant demand for fishing lures that will enhance the ability to catch fish while deep sea fishing.

10. The difficulty in studying deep sea fishing is also complicated by the fact that the areas in which desirable deep sea fish such as blue fin tuna, yellow fin tuna and swordfish are located are often a significant distance from ports at which the fishing boats originate. For example, it is not uncommon for a deep sea fishing boat to travel more than 10 hours prior to reaching the area where it is desired to conduct the deep sea fishing.

11. It is also not uncommon for deep sea fishing excursions to last many days or weeks. It is commonly accepted that most of the time on such excursions is spent searching for areas in which the deep sea fish are located rather than repeatedly reeling in fish that have been caught.

12. Another complicating factor associated with deep sea fishing is that it is much more difficult to study the interaction between fish that are desired to be caught and the lures that are used to catch such fish when compared to fishing that is done at much shallower depths in lakes or rivers.

13. The deep sea fishing lure used in conjunction with the tests set forth below includes a lure body, a first linear bank of display lights, a circular bank of display lights, a fiber optic bundle, a battery pack and an on/off switch. The lure body includes a housing with sidewalls made of a generally light-transmissive material and an interior space for accommodation of display lights. The first linear bank of display lights is installed in the housing parallel to an intended direction of travel of the lure through a body of water and includes a plurality of spaced apart individual electric light sources viewable through the light-transmissive material sidewalls of the housing. The circular bank of display lights is installed in the housing aft of the first linear bank of lights and includes a plurality of spaced apart, aft facing individual electric light sources. The fiber optic bundle has a first end connected inside the housing next to the circular light bank so as to receive light from the circular light bank, and a second end extending aft out of the

housing to transmit light from the circular light bank. The battery pack is installed in the housing and is connected to the light sources. The on/off switch is connected between the display light sources and the battery pack to turn the display lights on and off.

14. Attached hereto as Exhibit A is a photo of a deep sea fishing lure referenced in the preceding paragraph with the removable, interchangeable jacket not placed thereon to facilitate better viewing the structure of the deep sea fishing lure.

15. In one fishing excursion where the performance of the deep sea fishing lure claimed in this patent application was evaluated, a boat was fishing using one of the claimed deep sea fishing lures off the coast of New Zealand in 2004.

16. During a fishing excursion, which lasted about 33 hours from leaving port until returning to port, three swordfish were caught. The three swordfish weighed between 220 pounds and 440 pounds.

17. Attached hereto as Exhibit B is a photo of several persons from the fishing boat posing with two of the three swordfish caught during the excursion referenced in the preceding paragraph.

18. For comparison, during the preceding year there were 13 swordfish caught in the same waters off the coast of New Zealand.

19. The remarkable nature on the performance of the deep sea fishing lure of the claimed invention is evidenced by the fact that members of the media were on hand when the boat returned to port to conduct interviews and report on the

success of this fishing excursion in catching three swordfish during a period of about 33 hours.

20. On another fishing excursion during August of 2007 off the coast of New Zealand, a blue fin tuna weighing about 550 pounds was caught using the deep sea fishing lure claimed in this patent application.

21. Attached hereto as Exhibits C and D are two photos of the blue fin tuna referenced in the preceding paragraph.

22. In a fishing tournament held on July 6, 2008, originating from Lahaina, Hawaii, a yellow fin ahi tuna weighing approximately 180 pounds was caught using the deep sea fishing claimed in this patent application.

23. Attached hereto as Exhibit E is a photo of the yellow fin ahi tuna referenced in the preceding paragraph.

24. As evidence of the superior performance of the claimed deep sea fishing lure, there were 66 boats participating in the Lahaina fishing tournament. Of these boats, only four boats caught any fish. While the yellow fin ahi tuna, set forth in Exhibit E was the largest fish caught in this tournament, the boat catching this fish was disqualified because of a tournament rule violation relating to a person other than the fisherman who was attempting to land the yellow fin ahi tuna touching the line.

25. Further support for the superior performance exhibited by the deep sea fishing lure of the claimed invention is exhibited by the fact that during one of the fishing

excursions in which the performance of the fishing lure was being evaluated that is referenced above in Paragraphs 20 and 21, the boat on which the claimed deep sea fishing lure was being used was contacted by a Russian fishing trawler that was operating in the same area and offered $100,000 for the deep sea fishing lure and the approximately 2,000 pounds of fish that had been caught during the trip. While there is some value that is placed on the fish, a significant portion of the amount offered was attributed to the claimed deep sea fishing lure.

26. Attached hereto as Exhibit F is a photo of the Russian fishing trawler referenced in the preceding paragraph.

27. The persons on the Russian fishing trawler had expressed frustration at their poor performance when compared to the success of the boat that was using the claimed deep sea fishing lure.

28. In view of the preceding results, it is my opinion that the combination of elements in the deep sea fishing lure produced according to the invention claimed in the current patent application provides the deep sea fishing lure with performance that is superior to the performance of other fishing lures that do not include all of the claimed elements.

29. The information set forth in this Declaration supports the fact that the claimed deep sea fishing lure is non-obvious when viewed in light of the combination of references that the Examiner has cited as the basis for rejecting the claims that are currently pending in my patent application.

Declaration of Eric Aanenson
Applicant: Eric Aanenson
Serial No.: 10/773,504
Filed: February 6, 2004
Docket No.: A711.100.101
Title: DEEP SEA FISHING LURE

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Date: 17 Dec 2008

Eric Aanenson

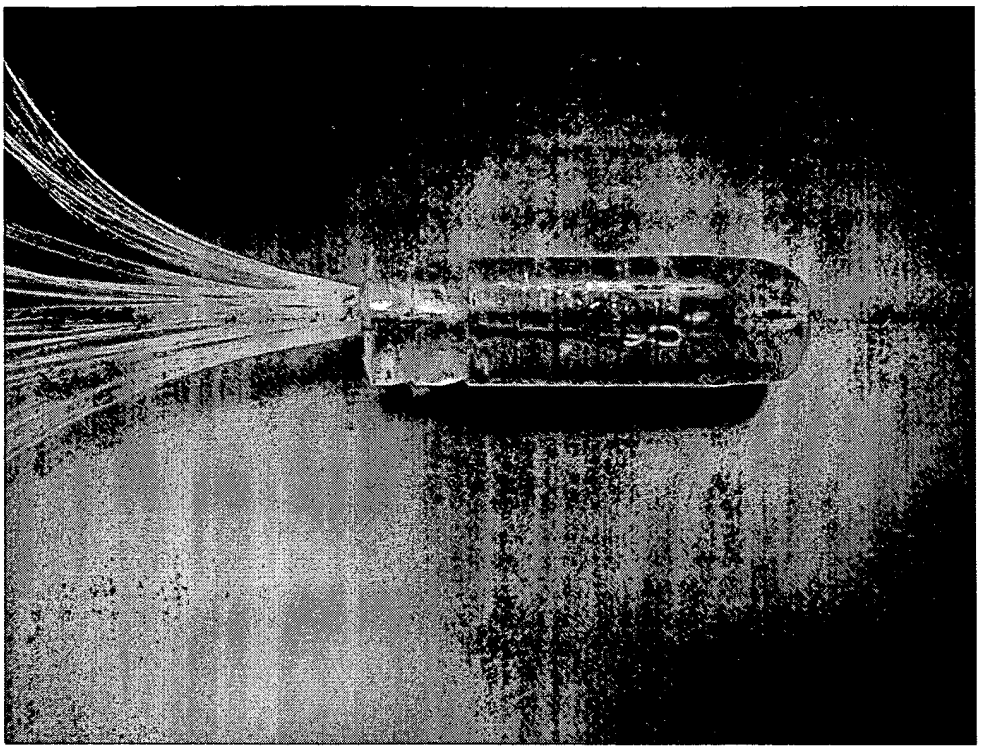

Exhibit A

Exhibit B

Exhibit C

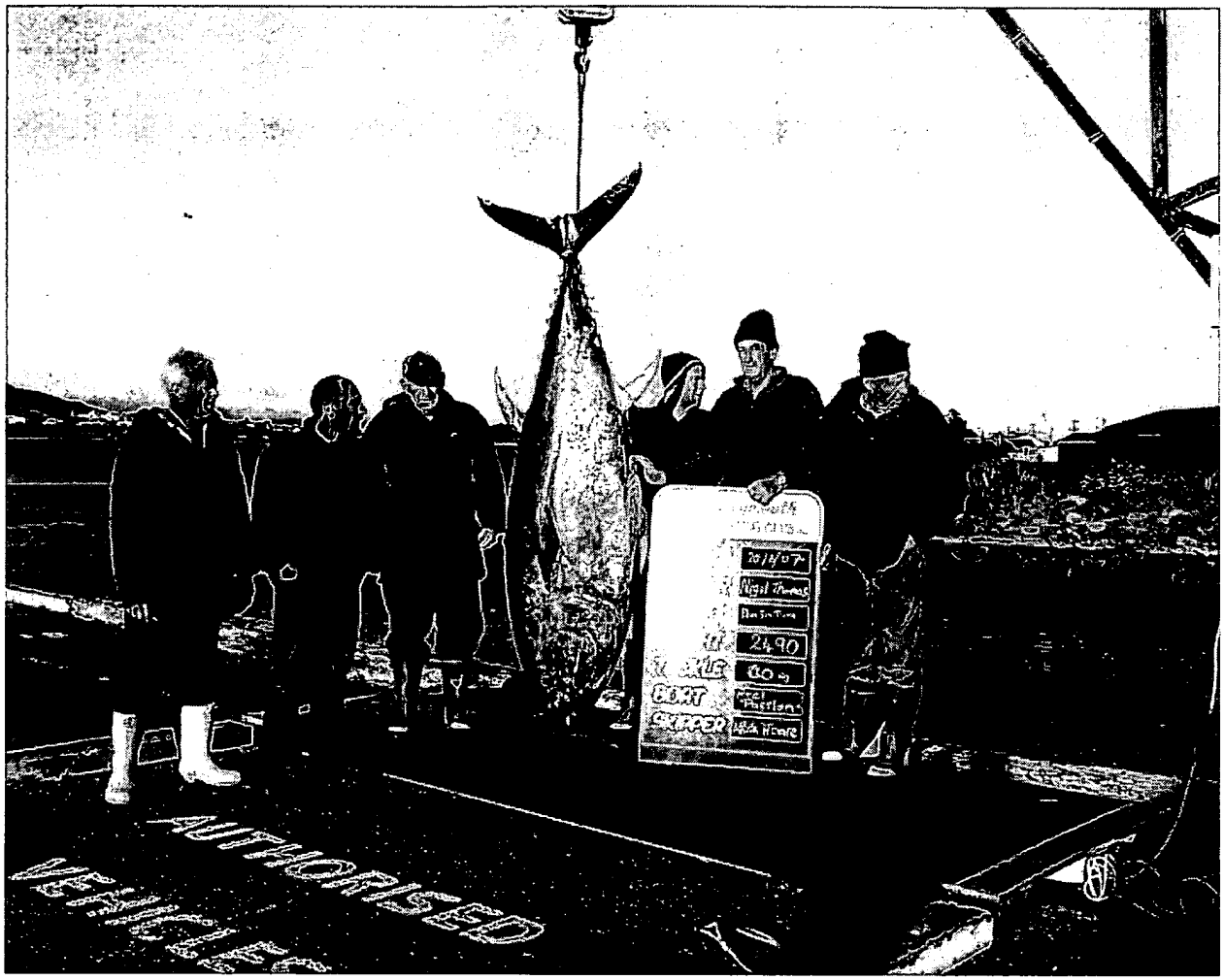

Exhibit D

Exhibit E

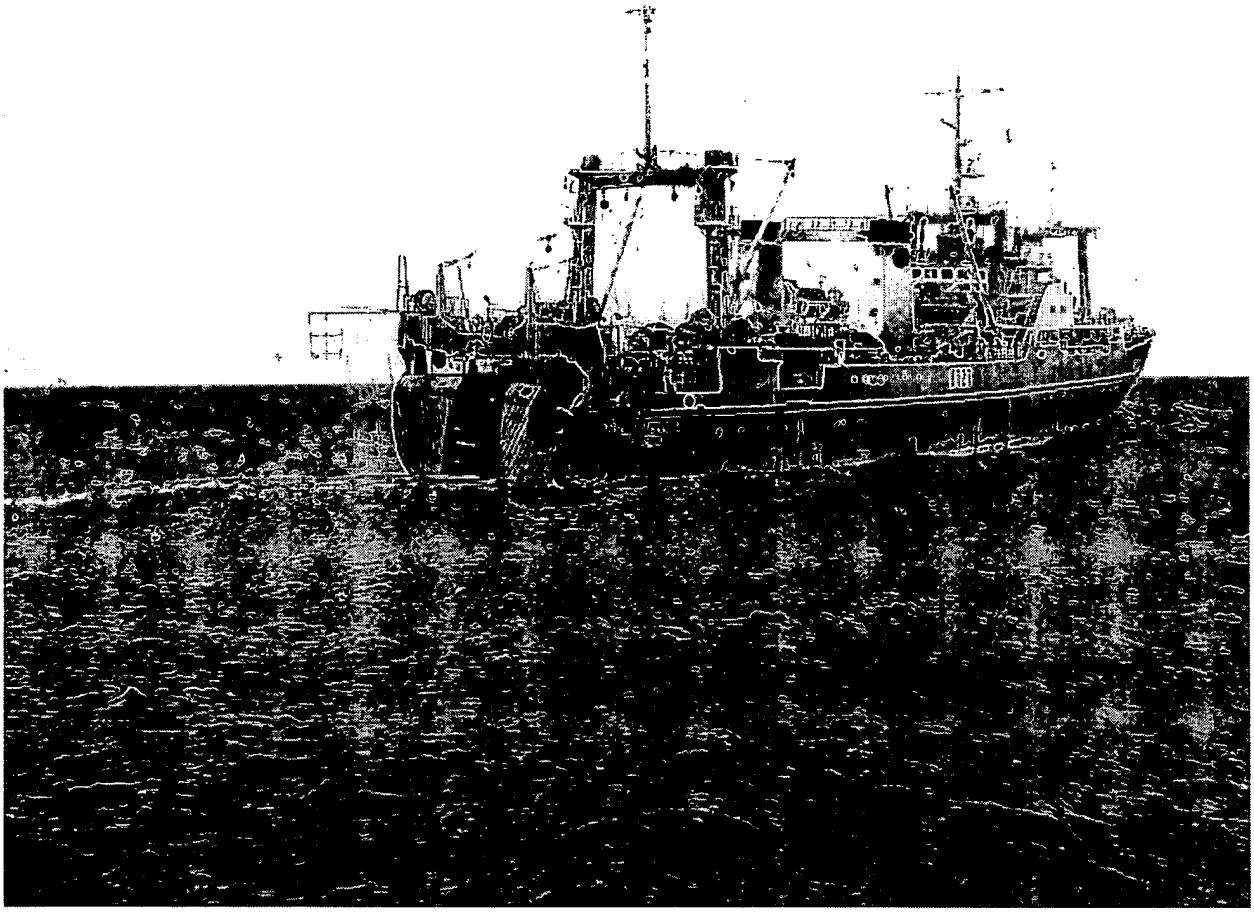

Exhibit F